

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Arthur Albano	Team: Squad #10	CCRB Case #: 201605318	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 05/06/2016 4:14 PM	Location of Incident: § 87(2)(b)	Precinct: 10	18 Mo. SOL 11/6/2017	EO SOL 11/6/2017	
Date/Time CV Reported Fri, 06/17/2016 10:01 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 06/17/2016 10:01 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. CPT Jesse Lance	00000	923789	PSA 4

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Harlyn Delossantos	02649	940058	PSA 4

Officer(s)	Allegation	Investigator Recommendation
A.CPT Jesse Lance	Force: Captain Jesse Lance used a taser against § 87(2)(b)	
B.CPT Jesse Lance	Force: Captain Jesse Lance used physical force against § 87(2)(b)	
C.CPT Jesse Lance	Force: Captain Jesse Lance used physical force against § 87(2)(b)	

Case Summary

Prior and up to May 6, 2016, § 87(2)(b) was living at the rear of 420 West 19th Street, in Manhattan. § 87(2)(b) lived in § 87(2)(b) with his wife, in a tent. On May 6, 2016, § 87(2)(b) left his tent unattended to go make breakfast at a nearby friend's apartment and take a shower. While he was at his friend's house, he noticed a bulldozer in the parking lot and his property being removed by NYCHA workers, in the presence of NYPD officers, including Captain Jesse Lance of PSA 4. Captain Lance has since been promoted to Deputy Inspector, however for the sake of consistency, will be referred to as Captain Lance in this report. § 87(2)(b) went downstairs to address the officers and went "crazy," yelling at the officers and using profanity. § 87(2)(b) became more aggravated by the fact that officers did not want to call his contact at Homeless services. § 87(2)(b) became louder and used more profanity. At some point, § 87(2)(b) told the property supervisor of NYCHA, § 87(2)(b) and the Property Manager, § 87(2)(b) "I am coming for you." § 87(2)(b) continued speaking to both NYCHA workers and officers and stated he began calming down, and lowering his voice. But then Captain Lance, without any provocation allegedly discharged his taser at § 87(2)(b) hitting him in the chest (**Allegation A**).

The prong hit § 87(2)(b) just above the left side of his chest and on the left collar bone. § 87(2)(b) felt at that time the electrical current going through him. § 87(2)(b) stated to Captain Lance, "You fucking tased me?" § 87(2)(b) proceeded to grab the Taser wires and pull the prongs out of his skin. § 87(2)(b) looked down at that point and did not see if Captain Lance changed cartridges or obtained another taser, but when § 87(2)(b) looked back up, Captain Lance allegedly tasered § 87(2)(b) again in § 87(2)(b)'s abdomen (**Within Allegation A**). § 87(2)(b) again felt the current going through him and saw his left arm started to shake. This got § 87(2)(b) even madder. § 87(2)(b) then reached for the taser wires again to pull it out, and then suddenly he allegedly felt Captain Lance's arm reach around his chest and pull him down to the ground, like a "clothesline." (**Allegation B**).

While on the ground, § 87(2)(b) allegedly felt someone striking him on the back of the head about 6 or 7 times (**Allegation C**). § 87(2)(b) yelled out, "What the fuck, I'm not resisting arrest." The hitting then stopped, but § 87(2)(b) allegedly felt the electrical current continue for another five minutes while officers placed him in handcuffs (**Within Allegation A**).

On May 7, 2016, § 87(2)(b) pled guilty to criminal trespass in the third degree, and was sentenced to seven days imprisonment, and orders of protection were issued against him for § 87(2)(b) and § 87(2)(b) of NYCHA.

Video Footage

Due to the fact that this case was received by the CCRB on June 17, 2016, over one month after the incident date, there was no responsive video footage from NYCHA, as the request exceeded the retention period at the incident location.

Civilian Contact Attempts

Additional witnesses for this incident were identified through fieldwork at the incident location. § 87(2)(g)

Mediation, Civil and Criminal Histories

- Due to the alleged injuries and arrest, this case was unsuitable for mediation.
- A notice of claim inquiry was sent to the New York City Comptroller's office on September 15, 2016. A response to this inquiry will be included in the case file upon its receipt.

- § 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first complaint filed by or involving § 87(2)(b)
- Captain Lance has been a member of the service for 17 years, and has one prior CCRB complaint containing two allegations, neither were substantiated. § 87(2)(g)

Findings and Recommendations

Allegation A -Force: Captain Jesse Lance used a taser against § 87(2)(b)

Allegation B- Force: Captain Jesse Lance used physical force against § 87(2)(b)

Allegation C- Force Captain Jesse Lance used physical force against § 87(2)(b)

It is undisputed that § 87(2)(b) was yelling, expressively gesturing with his hands, and told two NYCHA workers that he was "Coming for them" prior to being tased. According to § 87(2)(b) (Board Review 02), Captain Lance tased him without any additional provocation, other than his continuous yelling and use of profanity. § 87(2)(b) also alleged that he ripped out his first set of prongs and was tased a second time with another set of prongs. When § 87(2)(b) tried to remove the second set of prongs from his body, Captain Lance allegedly took § 87(2)(b) to the ground using a "clothesline" move where he wrapped his arm around § 87(2)(b)'s upper torso and pulled him to the ground. § 87(2)(b) stated that he landed on his side, moved onto his chest and was struck multiple times in the back of his head by Captain Lance. § 87(2)(b)

§ 87(2)(b) alleged that throughout the entirety of him being on the ground, for approximately five minutes, electrical current was moving through his body. § 87(2)(b) estimated that he was tased, for five continuous minutes, which included the time in which he was being handcuffed by officers.

According to NYCHA worker § 87(2)(b) (Board Review 03), Captain Lance was patient in dealing with § 87(2)(b) and also warned § 87(2)(b) multiple times to step back while he was yelling, using profanity and threatening the NYCHA workers as well as the officers. § 87(2)(b) ignored Captain Lance's commands and continued to move closer. Only after § 87(2)(b) disobeyed Captain Lance's commands to move back, § 87(2)(b) was tased by Captain Lance. § 87(2)(b) only observed one set of prongs hit § 87(2)(b) did not immediately go down after initially being tased and was then taken down to the ground via a tackle by Captain Lance. § 87(2)(b) denied that any officer struck § 87(2)(b) or used any force against § 87(2)(b) after he was on the ground. § 87(2)(b) also stated that the taser had stopped.

Captain Lance (Board Review 04) testified that prior to going to the incident location, to address the homeless condition with § 87(2)(b) he conferred with the NYPD legal bureau and searched § 87(2)(b)'s arrest history prior to this incident, and also was informed of an incident with the PSA 4 conditions unit in 2006 in which § 87(2)(b) had fought officers. His intention in going to § 87(2)(b) that day was to inform § 87(2)(b) that he had to move his property before Monday, or he would be arrested. When Captain Lance encountered § 87(2)(b)'s abandoned property, it was NYCHA's decision to remove the property. The NYCHA workers expressed to Captain Lance that they had been threatened by § 87(2)(b) in the past and feared for their safety from § 87(2)(b) if they threw out his property. When § 87(2)(b) arrived, he invaded the officers' zone of safety while he was yelling, using profanity and making verbal threats to NYCHA workers and officers. Captain Lance gave § 87(2)(b) multiple warnings to move back, which were all ignored as § 87(2)(b) continued to advance. According to Captain Lance, his decision to use his taser as opposed to other means of force was based on the fact that due to § 87(2)(b)'s heightened state, and prior history of fighting officers, he did not want to engage in physical force with the prospect of § 87(2)(b) resisting to the point that he would hurt himself or officers. Captain Lance admitted that he used one cycle of the taser, and when § 87(2)(b) did not go to the ground immediately, he tackled him to the ground. Captain Lance denied that he or any other officer used any additional force against § 87(2)(b) including strikes or contact to § 87(2)(b)'s head.

§ 87(2)(b) refused to sign medical release forms and therefore his medical records from the incident were unable to be obtained. Vouchers for § 87(2)(b)'s arrest note only one cartridge being used (Board Review 05). § 87(2)(b) did not allege any injuries other than the prong probes, despite having alleged being struck six to seven times in the back of his head. § 87(2)(b) also denied that he received medical attention for anything other than the one set of prongs being removed.

§ 87(2)(g)

§ 87(2)(g)

Officers are required to use the minimum necessary force to apprehend an individual and take them into custody. NYPD Patrol Guide Procedure 203-11.

Officers are required to consider the totality of the circumstances when deciding the minimum amount of force necessary to overcome resistance when effecting an arrest, include, but is not limited to: the officer's perception of the subject's willingness to resist, the officer's perception of the immediate threat to the subject, members of service and bystanders, and the suspect's violent history. NYPD Patrol Guide Procedure 212-117. (Board Review 06)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Squad:

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date